

RECORD OF OFFICIAL PROCEEDINGS OF THE COMMON COUNCIL
CITY OF ROCHESTER, MINNESOTA
Regular Meeting No. 16 – July 7, 2004

7112

Agenda Item	
A-1	<p>Wishing to be heard during the Open comment Period was Dan Mack, 1753 3rd Ave. SW, President of Southwood Townhomes. Mr. Mack explained that the townhome complex has had some severe flood damage because of the rain and drainage being inadequate. He felt the city had some responsibility in the damage and would like the council to study the problem. The information presented by Mr. Mack will be distributed to the council and staff for their review.</p>
B-1	<p>President John Hunziker called the meeting to order at 7:00 P.M. with the following members present: Councilmembers Dennis Hanson, Marcia Marcoux, Jean McConnell, Sandra Means, Bob Nowicki, Walter Stobaugh. Absent: None. Also present: Mayor Ardell F. Brede.</p>
D-1-24	<p>Councilmembers Hanson moved, Marcoux seconded, to approve the following consent agenda items.</p>
D-1	<p>Approved the minutes of the June 7 and 28, 2004, meetings.</p>
D-2	<p>Approved the following licenses and miscellaneous activities:</p> <p><u>Beer-Temporary On-Sale 3.2%</u> Olmsted County Fair – August 1 through 8, 2004</p> <p><u>Dance – Temporary</u> Benito Olgvin and Guadalupe Flores – dance at Graham Arena for Latin Community – July 11, 2004 – 7:00 P.M. to 1:00 A.M.</p> <p><u>Gambling – Temporary Off-Site Premise</u> Lourdes Foundation (Circus World Bingo) – Pull tabs at Olmsted County Fair Beer Tent – August 2 through 8, 2004 American Legion Post 92 – Pull tabs at Bear Creek Park – August 22, 2004</p> <p><u>Gambling – Temporary</u> Beer Creek Longbeards – Raffle at Kahler Hotel – January 22, 2005 Church of the Resurrection, 1600 11th Avenue S.E. – Pull tabs – August 8, 2004</p> <p><u>Master Installer</u> Brian Holsten, Forest Lake, Minnesota</p> <p><u>Outdoor Dining – renewal</u> Jasper's Alsatian Bistro, 14 Historic Third Street</p> <p><u>Sewer and Drains</u> Wenzel Mechanical, Inc., Eagan, Minnesota</p> <p><u>Sound Amplification</u> Gay-Lesbian Community Services – Annual Pridefest at Central Park – July 17, 2004 – 8:00 AM to 5:00 PM</p>

Agenda Item	
	<p>Julie Hammes – Summer Party with Band at 2310 16th Avenue N.W. – July 10, 2004 – 2:00 to 7:00 PPM Olmsted County Fair – County Fair Grounds – August 1 through 8, 2004 First Church, Mobile Home Court, Park Lane – Kutzky Park – July 10, 2004.</p>
D-3	Approved Accounts Payable in the amount of \$1,190,127.46 and Investment Purchases of \$11,494,575.97.
D-4	See at end of D-items.
D-5	Approved the appointment of Rod Steggerda to the position of Motor Operator in the Rochester Fire Department effective July 8, 2004.
D-6	Approved the appointment of Jeff Drew to the position of Motor Operator in the Rochester Fire Department effective July 8, 2004.
D-7	Adopted Resolution No. 326-04 approving the application and acceptance of a FY2004 Department of Justice Local Law Enforcement Block Grant in the amount of \$17,916.00 and the cash match from the City of Rochester contingency account.
D-8	Accepted the donation of \$1,300 in grant monies for the Rochester Police Department to purchase digital camera equipment for the Investigations Division.
D-9	Adopted Resolution No. 327-04 approving the advertisement for bids for Project No. M4-11 (J-7726) "Sanitary Sewer and Watermain Extension to Serve the South Frontage Road of TH14 East from the Knights of Columbus Easterly to the Hundred Acre Woods Development".
D-10	<p>Adopted Resolution No. 328-04 reconsidering the Council's June 21, 2004 decision to amend the Comprehensive Traffic and Parking Resolution – Section L – Residential Permit Parking, Zone 8, Paragraph 2 to state:</p> <p style="padding-left: 40px;">8 ½ Avenue NW, from 2nd Street to 3rd Street, both sides, from 7:00 AM to 3:00 PM, Schools Days Only.</p>
D-11	Adopted Resolution No. 329-04 approving the advertisement for bids for Project No. SW-M201 (J-4001) "Rocky Creek Stabilization in the Vicinity of Cheval Lane N.E.".
D-12	Adopted Resolution No. 330-04 approving the Amended Development Agreement with Big De Development Company, LLC for Bandel North 2 nd and 3 rd .
D-13	Adopted Resolution No. 331-04 approving the Revocable Permit with Independent School District 535 to allow the placement of storm sewer across City-owned property in the Churchhill School area.
D-14	Adopted Resolution No. 332-04 approving the execution of a Pedestrian Facilities Agreement with Daniel and Theresa Penz for seven feet of donated right-of-way along 3 rd Avenue S.E., a part of Lot 1, Block 1, J.L. Replat.

Agenda Item	
D-15	Adopted Resolution No. 333-04 approving the feasibility study for Project No. 6206-3-04 (J-6521) "Emergency Storm Sewer Reconstruction in Sixth Street SW from South Broadway to 1 st Avenue SW".
D-16	<p>Adopted Resolution No. 334-04 authorizing the execution of a City/Owner Contract with Mayo Clinic Rochester and Knutson Construction, Inc. for Project No. J-5144 "Sanitary Sewer Relocation in 1st Street NW to accommodate the 1st Avenue NW Pedestrian Subway crossing, aka Mayo Clinic Project #21302".</p> <p>The work relationship of Councilmember Stobaugh with the Mayo Foundation was noted.</p>
D-17	Adopted Resolution No. 335-04 approving the City/Owner Contract with ABBCO Construction Company for Project No. J-9832 "Sanitary Sewer and Watermain Extension to Northern Reserve along CSAH 22, and construction of Regional Storm Water Pond ZR-A4.4".
D-18	Adopted Resolution No. 336-04 approving a Contribution Agreement with Redeemer Evangelical Lutheran Church U.A.C., Inc. for Lots 5 & 6, Block 1, Hanson's Subdivision of Lot 60 Auditor's Plat 'A', Olmsted County, Minnesota, together with Lots 66, 67, 68 & 69, Auditor's Plat 'A', Olmsted County, Minnesota.
D-19	<p>Adopted Resolution No. 337-04 approving a revocable permit with Mayo Clinic Rochester to allow the placement of a pedestrian tunnel within the right-of-way of 1st Avenue NW and 1st Street NW.</p> <p>The work relationship of Councilmember Stobaugh with the Mayo Foundation was noted.</p>
D-20	Adopted Resolution No. 338-04 approving the Whispering Oaks Development Agreement with Forbrook Bigelow Development, LLC.
D-21	Adopted Resolution Nos. 339-04, 340-04 and 341-04 authorizing the City Clerk to advertise for bids for Project No. J-6004 "Traffic Signal at 55 th Street N.W. at Chateau Road", Project No. J-7222 "Realign Chateau Road NW from Villa Road to 55 th Street and connect Villa Road to Longboat Road", and Project No. J-7225 "Northwest Plaza Driveway Improvements".
D-22	<p>Adopted Resolution No. 342-04 adding Paragraph 324 to Section B "No Parking" of the Comprehensive Traffic and Parking Resolution Book, to read:</p> <p style="padding-left: 40px;">(324) George Gibbs Drive SW, from 175 feet to 210 feet, more or less, south of 7th Street SW, on the east side near the sanitary sewer manhole, at all times.</p>
D-23	Adopted Resolution No. 343-04 authorizing payment of Supplemental Agreement #6 for Project No. J-2269 "Highway 63 South/48 th Street and St. Bridgets Road" to MnDot in the amount of \$60,806.24 as part of the Municipal Cost Share Agreement.

Agenda Item	
D-24	<p data-bbox="358 380 1442 478">Adopted Resolution No. 344-04 approving the adding of Paragraph 15 to Section G "One-Way Streets and Alleys" of the Comprehensive Traffic and Parking Resolution Book, to read:</p> <p data-bbox="456 512 1317 579">(15) Harvest Moon Boulevard NW, between 56th Street NW and Harvest Lake Drive NW, one-way northbound.</p> <p data-bbox="358 613 813 646">Ayes (7), Nays (0). Motion carried.</p>
D-4	<p data-bbox="358 680 1442 814">Councilmember Means questioned whether there was enough time for the city to receive bids and review them for this purchase. It was explained that the bid process was followed with only one bid presented on the opening date and that was then accepted.</p> <p data-bbox="358 848 1425 947">Councilmember Hanson moved, Means seconded to adopted Resolution No. 345-04 approving the purchase of a Fire Safety/Sprinkler Demonstration House from Mobile Concepts by Scotty at \$55,422.00. Ayes, (7), Nay (0). Motion approved.</p>
E-1	<p data-bbox="358 987 1409 1085">A Continued Hearing on Land Use Plan Amendment #04-02 by Marilyn Kastler to change from low density residential to commercial on property located on 48th Street S.W., west of TH63 and east of the Southern Woods Development.</p> <p data-bbox="358 1119 1430 1152">The applicant requested that items E-1, E-2 and E-3 be continued to July 19, 2004.</p> <p data-bbox="358 1186 1435 1285">Councilmember Hanson moved, Marcoux seconded to continue Land Use Plan Amendment #04-02, Zoning District Amendment #04-06 and General Development Plan #233 to the July 19, 2004 meeting. Ayes (7), Nays (0). Motion carried.</p>
E-2	<p data-bbox="358 1323 1430 1421">A Continued Hearing on Zoning District Amendment #04-06 by Marilyn Kastler to change the zoning from R-1 to B-4 on property located on 48th Street S.W., west of TH63 and east of the Southern Woods Development.</p> <p data-bbox="358 1455 911 1488">Continued to July 19, 2004. See Item E-1.</p>
E-3	<p data-bbox="358 1520 1377 1619">A Continued Hearing on General Development Plan #233 to be known as Waterfront Business Park by Marilyn Kastler on property located on 48th Street S.W., west of TH63 and east of the Southern Woods Development.</p> <p data-bbox="358 1652 911 1686">Continued to July 19, 2004. See Item E-1.</p>
E-4	<p data-bbox="358 1717 1425 1791">A Hearing on Final Plat #03-42 to be known as Century Hills Eighth Subdivision by Payne Company located east of East Circle Drive.</p> <p data-bbox="358 1824 1430 1923">Wishing to be heard was Wade DuMond from Yaggy-Colby representing the developer. Mr. DuMond said they were in agreement with the three conditions and was available for any questions.</p>

Agenda Item	
	<p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Nowicki moved, Stobaugh seconded, to adopt Resolution No. 346-04 approving Final Plat #03-42 to be known as Century Hills Eighth Subdivision by Payne Company with three conditions. Ayes (7), Nays (0). Motion carried.</p>
E-5	<p>A Hearing on Final Plat #04-23 to be known as Weidner Subdivision by Bruce Weidner located along the north side of 37th Street N.W., west of Hollywood Video and east of Super America.</p> <p>Wishing to be heard was Jeff Price, McGhie & Betts, representing the developer. He stated they were in agreement with the conditions and was available for any questions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p>
	<p>Councilmembers Means moved, McConnell seconded, to adopt Resolution No. 347-04 approving Final Plat #04-23 to be known as Weidner Subdivision by Bruce Weidner with three conditions. Ayes (7), Nays (0). Motion carried.</p>
E-6	<p>A Hearing on Utility Vacation Petition #04-09 by 19th Street Business Park West, LLC to vacate a part of the utility easement located along the south side of 19th Street N.W., east of West Circle Drive and west of 32nd Avenue N.W.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmember Hanson moved, Marcoux seconded, to adopt Resolution No. 348-04 approving Utility Vacation Petition #04-09 by 19th Street Business Park West, LLC. Ayes (7), Nays (0). Motion carried.</p>
E-7	<p>A Hearing on Annexation Petition #04-10 by Roger Carlsen and Mike Coats to annex land located along the north side of 19th Street N.W. and east of 50th Avenue N.W.</p> <p>Wishing to be heard was Jeff Price, McGhie and Betts representing the applicant and was present to answer any questions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Stobaugh moved, Nowicki seconded, to approve Annexation Petition #04-10 by Roger Carlsen and Mike Coats and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p>
E-8	<p>A Hearing to Consider an Amendment to the 2004 CDBG Action Plan to Reallocate Up to \$44,300 of Olmsted County HRA Flood Homes Activity for Emergency Rental Housing Payments Due to Loss of Section 8 Assistance Due to Reduction of Federal Funding.</p>

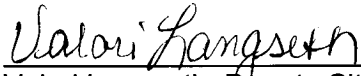
Agenda Item	
	<p>Terry Spaeth and Phil Wheeler, City Staff, explained the process of this amendment.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Marcoux moved, Hanson seconded to approve the Amendment to the 2004 CDBG Action Plan to Reallocate Up to \$44,300 of Olmsted County HRA Flood Homes Activity for Emergency Rental Housing Payments Due to Loss of Section 8 Assistance Due to Reduction of Federal Funding. Ayes, (7), Nays (0). Motion carried.</p> <p>F-1 Councilmember Hanson moved, McConnell seconded to table this item until July 19, 2004.</p> <p>Discussion: Councilmember Hanson expressed concerns over legal issues regarding this TID item that developers have brought to his attention. He asked the City Attorney whether he would be receptive to these legal concerns. The City Attorney indicated he would be willing to listen to legal concerns anyone has about a process the City is about to engage in.</p> <p>Councilmember Means would like to see more education for the public on the impact to all concerned with this resolution.</p> <p>Councilmember Marcoux questioned whether there were any legal issues and felt if there was a concern, that this would have been discussed at the time the task force was conducting their meetings.</p> <p>President Hunziker asked for a role call of the motion on the floor. Councilmembers Hanson, McConnell and Means voted yes. Councilmembers Marcoux, Nowicki and Stobaugh voted nay. President Hunziker voted Nay. Motion denied.</p> <p>Councilmembers McConnell moved, Stobaugh seconded to adopt Resolution No. 349-04 approving establishing policy on use of contribution agreements to improve substandard streets, items 1,2,4,5 and 6 in block of the Traffic Improvement District Program and address number 3 separately. Ayes (6), Nays (1). Councilmember Hanson voted nay. Motion carried.</p> <p>Councilmembers Stobaugh moved, Marcoux seconded to adopt Resolution No. 350-04 approving Item 3, the cost for the TID project as 75% developer funding, 25% public funding. Ayes (5), Nays (2). Motion carried. Councilmembers Hanson and McConnell voted nay.</p>
F-2	<p>Councilmember Hanson moved, Marcoux seconded to table the Amendment to the GDP #123 Southern Woods, to identify Access due to the tabling of Items 1, 2 and 3 and the waiver of the 60 days. Ayes (7), Nays (0). Motion carried.</p>
G-2a	<p>An Ordinance Annexing to the City of Rochester Approximately 16.74 Acres of Land Located in the Northwest Quarter of Section 29, Township 107 North, Range</p>

Agenda Item	
	<p>14 West, Olmsted County, Minnesota, was given a first reading. (Annexation Petition #04-10 by Roger Carlson)</p>
G-3a	<p>An Ordinance Amending and Reenacting Section 38.125 of the Rochester Code of Ordinances, Relating to the Suspension or Revocation of a Rental Registration Certificate, was given a second reading. Councilmembers Marcoux moved, Stobaugh seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried.</p>
G-3b	<p>An Ordinance Rezoning Approximately 1.12 Acres of Property From the R-3 Zoning District to the B-1 Zoning District, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a second reading. Councilmembers McConnell moved, Marcoux seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Zoning District Amendment #04-10 – South Side of Valleyhigh Road N.W., West Side of Superior Drive N.W.)</p>
G-3c	<p>An Ordinance Rezoning Approximately 39.54 Acres of Property From the I Zoning District to the R-1 Zoning District, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a second reading. Councilmembers Marcoux moved, McConnell seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Zoning District Amendment #04-05 – West of Marion Road S.E., North of 30th Street S.E., Northeast of Pinewood Road S.E.)</p>
G-3d	<p>An Ordinance Annexing to the City of Rochester Approximately 34.9 Acres of Land Located in a Part of the Southeast Quarter of Section 13, Township 107 North, Range 14 West, Olmsted County, Minnesota, was given a second reading. Councilmembers Marcoux moved, Stobaugh seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Annexation Petition #04-08 – East of Highway 63, South of 48th Street N.E., North of Northland Place N.E.)</p>
G-3e	<p>An Ordinance Annexing to the City of Rochester Approximately 39.67 Acres of Land Located in the West Half of the East Half of the Northwest Quarter of Section 20, Township 107 North, Range 14 West, Olmsted County, Minnesota, was given a second reading. Councilmembers McConnell moved, Nowicki seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Annexation Petition #04-09 – North side of Valleyhigh Road N.W., East of 50th Avenue N.W., West of West Circle Drive)</p>
G-3f	<p>An Ordinance Amending and Reenacting Section 63.126 of the Rochester Code of Ordinances, Relating to the Placement of Fences, Walls or Hedges, was given a second reading. Councilmembers Hanson moved, Stobaugh seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Text Amendment #04-01)</p> <p>Councilmember Stobaugh asked to speak. He announced that he would not be filing for the 6th Ward council position. He thanks the council, family and friends for</p>

Agenda
Item

their support and endorsed Mark Bilderback for his position.

Having no further business, Councilmembers Hanson moved, Marcoux seconded to adjourn the meeting. Ayes (7), Nays (0). Motion carried.


Valori Langseth, Deputy City Clerk